

REMARKS

Favorable reconsideration of this application is requested.

Claims 1 and 4-13 are in the case.

Claims 1 and 3-6 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Nagata et al.

Claims 1, 6 and 7 stand rejected under 35 U.S.C. § 102 s being anticipated by Tobe et al.

Claims 1 and 3-7 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Fukushima et al.

Claims 1 and 3-7 stand rejected under 35 U.S.C. § 112, first paragraph.

The interview kindly granted by the Examiner, Mr. Hendricks, on May 27, 2003 is herewith acknowledged with appreciation. It served to materially advance the prosecution of the case by clarifying the issues. The Examiner at said interview stated that he will reconsider his position in light of Applicants' arguments made at said interview set forth and elaborated upon below.

The invention relates to a method for preparing a light colored seasoning liquid, comprising forming a Koji-making material comprising a raw material mixture comprising (a) a first component comprising 0-40% soybeans and (b) a second component comprising 60-100% gluten and wheat, wherein the gluten is present in an amount of 25-100%, the wheat is present in an amount 0-75% relative to the total of the gluten-containing second component, the percentages being on a dry weight basis, adding 7-24% salt water to said koji making material and subjecting the resulting mixture to fermentation by adding seed Koji, wherein the salt water is employed in a volume amount 1.35-1.50 times the weight of the raw

material mixture, and wherein the fermentation is carried out for 2-3 months at 10°C; or for one month at 10°C and subsequently for a further 1-2 months at 20°C.

Specifically, as so defined by Claim 8, the volume amount of salt water is 1.50 times the weight of the raw material mixture.

With regard to the rejection of the claims under Tobe et al., this rejection clearly has been obviated by the incorporation of the limitations of Claim 3, not so rejected, into the generic claims.

Accordingly, withdrawal of the rejection of the claims over Tobe et al. is requested.

With regard to the rejection of the claims under Nagata et al. and Fukushima et al., the following is submitted in traversal thereof.

A feature neither disclosed nor made obvious by the other references is the use of salt water in an amount of both 1.35-1.50 times the weight of the raw material mixture, specifically 1.50 times weight of the raw material mixture, and that such salt water has a concentration of 7-24%. Unobviously superior results are obtained due to these limitations with regard to JAS color code, total nitrogen content, glutamic acid content, and the amount of glutamic acid per unit of nitrogen. This is so demonstrated by the results set forth in Tables 1 and 2 at pages 8 and 9 of the specification, respectively, reproduced below.

Table 1

No.	Salt (%)	JAS color code	TN (%)	Glu (%)	Glu/TN (mg/g)
1	7	42	3.14	4.24	1350
2	15	40	2.99	4.38	1465
3	22	37	2.93	4.49	1532
4	24	35	2.95	4.07	1380
5	26	31	2.95	3.57	1210

Table 2

No.	fermentation temp. (°C)		JAS color code	TN (%)	Glu (%)	Glu/TN (mg/g)
	0-1 month	1-3 months				
6	10	10	41	3.00	4.84	1613
7	10	20	40	2.99	4.38	1465
8	20	20	40	3.04	3.74	1230

The result-effectiveness due to the claimed limitations with regard to the selection of a particular amount of salt water and wherein such salt water also has a particular concentration of salt therein manifestly is unobvious, rebutting any possible *prima facie* case of obviousness conceivably made out by the references. Note *In re Antonie*, 195 USPQ 6. Such result in effectiveness could not have been foreseen.

Specifically, in Nagata et al., as note Example 5, 1.65 times the weight of the raw material mixture of salt water is used. The artisan thus clearly would not be motivated thereby to employ only up to 1.50 times the weight of the raw material mixture of salt water, nor expect unexpectedly superior results to be obtained thereby. Clearly, no anticipation, within the meaning of 35 U.S.C. § 102, requiring complete identity in the prior art, is present, any presumption of obvious made out by the reference also standing rebutted by the comparative evidence in the case.

Accordingly, withdrawal of the rejection of the claims over Nagata et al. is requested.

With regard to the rejection of the claims under 35 U.S.C. § 102(b) as being anticipated by Fukushima et al., similar considerations are applicable. Here again, as note its Example 1, salt water is present in an amount of 1.76 times the weight of the raw material mixture, significantly higher than as claimed. That by reducing the amount of salt water, the

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improved results so shown are obtained manifestly could not have been foreseen and are indicia of patentability.

Withdrawal of the rejection of the claims under 35 U.S.C. § 102 over Fukushima et al. thus is requested.

With regard to the rejection of the claims under the first paragraph of 35 U.S.C. § 112, the following is again submitted. As so held by the Board in *Ex parte Jackson*, 110 USPQ 561, ranges of percentages of elements in a claim are not arbitrary when they are supported by examples in the application. Such is the case here. Note that in the examples, the mixture comprises 840 grams of vital gluten powder, 560 grams of wheat flower and 600 grams of soybeans, for a total of 2,000 grams of raw material mixture, 3,000 ml of salt water, i.e., 1.5 times the weight of the raw material mixture, being added thereto. The Examiner at said interview stated that he will reconsider his position in light thereof. In any event, Claims 8-13 specifically define the amount of salt water present in the examples.

Withdrawal of the rejection of the claims under the first paragraph of 35 U.S.C. § 112, thus is requested.

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It is submitted that this application is now in condition for allowance and which is solicited.



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